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DEC 14 2005

OFFICE OF PETITIONS

In re Patent No. 6,942,823	:	DECISION ON
Terada, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: September 13, 2005	:	AND NOTICE OF INTENT
Application No. 10/620,557	:	TO ISSUE
Filed: July 17, 2003	:	CERTIFICATE OF
Attorney Docket No. 0216-0490P	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER § 1.705", filed October 14, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from twenty-four (24) days to fifty-six (56) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **fifty-six (56)** days.

On September 13, 2005, the above-identified application matured into U.S. Patent No. 6,942,823. The instant request for reconsideration filed October 14, 2005 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of twenty-four (24) days.

Patentee states that the patent is not subject to a terminal disclaimer.

The Office determined a patent term adjustment of twenty-four (24) days based on an adjustment for PTO delay of one hundred thirty-two (132) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), and eighteen (18) days pursuant to 35 U.S.C. 154(b)(1)(B)(iii) and 37 C.F.R. §1.703(a)(6), reduced by applicants' delays of one hundred twenty (120) and six (6) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(10). The PTO delays have been reviewed and found to be correct. The adjustments of 120 and 6 days are at issue.

The Notice of Allowance was mailed on January 27, 2005. On April 20, 2005, Applicants filed an IDS. Six days later, applicants filed a Rule 312 Amendment. The Office mailed a response to the IDS and Rule 312 Amendment on July 22, 2005. Accordingly, pursuant to 37 C.F.R. 1.704(c)(10), ninety-four (94) days of applicant delay should have been assessed, not 126.

In view thereof, the correct determination of PTA at the time of issuance is fifty-six (56) days (150 days of PTO delay and 94 days of applicant delay).

Receipt of the \$200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **fifty-six (56)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
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Enc: draft certificate of correction